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HOUSE BILL 587

By Chumney

AN ACT to amend Tennessee Code Annotated, Title 4; Title 9; Title 33; Title 36; Title 37; Title 49; Title 68 and Title 71, relative to the tobacco master settlement agreement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 4, is amended by deleting Part 55 in its entirety, and by substituting instead Sections 2 through 5 of this act.

SECTION 2. This act shall be known and may be cited as the "Millennium Trust Fund and Authority Act of 2001".

SECTION 3.

(a) The general assembly finds and declares that it is advisable to create the Millennium Trust Fund Authority. The purpose of the authority is to manage the assets of the state which are derived from the settlement of tobacco lawsuits. Further, the authority is empowered to administer programs created by this act, such programs to be funded with assets of the authority.

(b) A board of directors for the authority is hereby created to govern the affairs of the authority. The board shall be composed of:

(1) The governor;

- (2) The secretary of state;
- (3) The comptroller of the treasury;
- (4) The state treasurer;
- (5) The commissioner of finance and administration;
- (6) The commissioner of health; and
- (7) The commissioner of human services.

(c) The members may from time to time designate representatives to attend and participate in meetings of the board in their absence.

(d) The board shall have such powers as necessary or convenient to carry out the purposes and provisions of this act, including, but not limited to, the power to:

- (1) Contract for necessary goods and services;
- (2) Employ necessary personnel; and,
- (3) Engage the services of consultants and other professionals for administrative and technical assistance.

(e) The board shall have the power to issue debt in the authority's name, such debt to be secured by payments received by the state under the tobacco settlement agreement as well as such other authority assets as the board deems appropriate.

(f) As used in this act, unless the context otherwise requires, "tobacco settlement agreement" means the tobacco litigation settlement agreement entered into by Tennessee and certain other states, United States territories and possessions, and participating tobacco manufacturers, dated November 23, 1998.

SECTION 4.

(a) The Millennium Trust Fund is hereby established for the purposes of management of funds received by the state of Tennessee as a result of the tobacco settlement agreement, including income from the investment of those funds. The trust fund shall consist of two accounts as follows:

(1) "Non-Expendable Account" shall consist of fifty percent (50%) of all funds received by the state pursuant to the tobacco settlement agreement and, to this effect, fifty percent (50%) of all such funds received by the state are hereby appropriated to the non-expendable account. Funds in this account shall be invested for the benefit of the account in any of the investments authorized for the Tennessee consolidated retirement system which are not prohibited for investment by the authority or by the Constitution of Tennessee. Income earned on the non-expendable account shall remain in the account. Funds in the account shall not revert to the general fund. The board shall annually certify on or before December 1 of each year, to the commissioner of finance and administration, the amount of earnings that are available for transfer to the expendable account. In determining such amount, the board shall ensure that the purchasing power of the account over time is preserved.

(2) "Expendable Account" shall consist of fifty percent (50%) of all funds received by the state pursuant to the tobacco settlement agreement and, to this effect, fifty percent (50%) of all such funds received by the state are hereby appropriated to the expendable account. In addition, the expendable account shall also consist of funds that may be transferred from the non-expendable account as well as earnings on the expendable account. Funds in such account shall be administered pursuant to § 9-4-603 and shall not revert to the general fund. Funds in the expendable account are available for appropriation by the general assembly for the program purposes provided within this act.

(b) As used in this section, "income" means all interest and dividends derived from the investment of any tobacco settlement funds and any capital gains from the sale or exchange of those investments.

SECTION 5. The authority is authorized to administer the following programs and to fund such programs with funds available within the expendable account. Such programs may be administered directly by the authority or by other state agencies or entities under contract with the authority. From funds available within the expendable account, the general assembly shall annually allocate funds between the following programs:

(1) A program to enhance early learning and child care initiatives to include subsidies for working families who do not qualify for existing child care subsidies; for improvement of child care quality in this state by funding activities which include child care provider training activities; for increased reimbursement rates for child care facilities that provide superior care; for support of activities of the child care facilities corporation; and for similar activities as approved by the board; such program shall receive a minimum of twenty-five percent (25%) of funds available in each year;

(2) A health care enhanced program to include programs designed to reduce youth smoking; and

(3) A scholarship program for children of tobacco farmers and victims of tobacco-related illnesses.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.